

## CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1428

**Citations Affected:** IC 5-2-1-6; IC 10-14; IC 10-15-2; IC 11-10-4-3; IC 12-26; IC 22-14-3-2; IC 33-23; IC 33-24-6-3; IC 35-36; IC 35-44-2-5; IC 36-8-10.5.

**Synopsis:** Public safety matters. Conference committee report for EHB 1428. Reduces from 11 to nine the number of members required for a quorum for the law enforcement training board. Requires at least nine affirmative votes for the passage of any matter put to a vote of the board. (Current law requires at least 11 affirmative votes for the passage of any subject matter put to a vote by the board.) Specifies the manner of approval for allocations from the emergency management contingency fund. Makes certain changes relating to who is eligible to receive financial assistance from the disaster relief fund. Allows certain members of the homeland security foundation to appoint certain designees for a specified meeting. Provides that all amusement and entertainment permits expire one year after the date of issuance. Requires the division of state court administration to establish and administer an electronic system for: (1) receiving information that relates to certain individuals who may be prohibited from possessing a firearm; and (2) transmitting this information to the Federal Bureau of Investigation for inclusion in the federal National Instant Criminal Background Check System (NICS). Provides that, if a court makes an adjudication or a finding concerning a person's mental health that may disqualify the person from possessing a firearm, the court shall transmit certain information concerning the finding or adjudication to the division of state court administration for transmittal to NICS. Establishes a procedure by which a person who has been released from commitment or who has completed treatment may have the person's disqualification to possess a firearm removed. Provides that it is a Class A misdemeanor for a person to knowingly or intentionally manufacture and sell or offer for sale: (1) an official badge or a replica of an official badge that is used by a law enforcement agency or fire department of the state or a political subdivision of the state; or (2) a document that purports to be an official employment identification that is used by a law enforcement agency or fire department of the state or a political subdivision of the state; without the written permission of the chief executive officer of the law enforcement agency or fire department. Makes the offense: (1) a Class D felony if the person commits the offense with the knowledge or intent that the badge or employment identification will be used to commit the offense of impersonation of a public servant; and (2) a Class B felony if the person commits the offense with the knowledge or intent that the badge or employment identification will be used to commit an offense involving weapons of mass destruction. Provides that a full-time firefighter employed after December 31, 2009, must complete the training for Firefighter I and Firefighter

II during the firefighter's first year of employment as a full-time firefighter. Allows the education board of the division of preparedness and training of the department of homeland security (board) to grant six month extensions of time to complete the training requirements for any reason. Requires a fire department to request the extension on behalf of a firefighter employed by the department. Requires a fire department to report to the board when a firefighter employed by the department has completed the training requirements. **(This conference committee report adds provisions that: (1) reduce from 11 to nine the number of members required for a quorum for the law enforcement training board; (2) require at least nine affirmative votes for the passage of any matter put to a vote of the board; (3) specify the manner of approval for allocations from the emergency management contingency fund (4) make certain changes relating to who is eligible to receive financial assistance from the disaster relief fund; (5) allow certain members of the homeland security foundation to appoint certain designees for a specified meeting; (6) provide that all amusement and entertainment permits expire one year after the date of issuance; (7) require the division of state court administration to establish and administer an electronic system for: (A) receiving information that relates to certain individuals who may be prohibited from possessing a firearm; and (B) transmitting this information to the Federal Bureau of Investigation for inclusion in the federal National Instant Criminal Background Check System (NICS); (8) provide that, if a court makes an adjudication or a finding concerning a person's mental health that may disqualify the person from possessing a firearm, the court shall transmit certain information concerning the finding or adjudication to the division of state court administration for transmittal to NICS; (9) establish a procedure by which a person who has been released from commitment or who has completed treatment may have the person's disqualification to possess a firearm removed; (10) provide that a full-time firefighter employed after December 31, 2009, must complete the training for Firefighter I and Firefighter II during the firefighter's first year of employment as a full-time firefighter; (11) allow the board to grant six month extensions of time to complete the training requirements for any reason; (12) require a fire department to request the extension on behalf of a firefighter employed by the department; and (13) require a fire department to report to the board when a firefighter employed by the department has completed the training requirements.)**

**Effective:** Upon passage; July 1, 2009; January 1, 2010.

## CONFERENCE COMMITTEE REPORT

**MR. SPEAKER:**

*Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill No. 1428 respectfully reports that said two committees have conferred and agreed as follows to wit:*

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 public safety.
- 4 Delete everything after the enacting clause and insert the following:
- 5 SECTION 1. IC 5-2-1-6, AS AMENDED BY P.L.52-2005,
- 6 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 7 JULY 1, 2009]: Sec. 6. The board and advisory council shall meet at
- 8 least four (4) times in each year and shall hold special meetings when
- 9 called by the chairperson. The presence of ~~eleven (11)~~ **nine (9)**
- 10 members of the board constitutes a quorum for doing business. At least
- 11 ~~eleven (11)~~ **nine (9)** affirmative votes are required for the passage of
- 12 any matter put to a vote of the board. Advisory council members are
- 13 entitled to participate in the business and deliberation of the board, but
- 14 only board members are entitled to vote. The board shall establish its
- 15 own procedure and requirements with respect to place and conduct of
- 16 its meetings.
- 17 SECTION 2. IC 10-14-3-28 IS AMENDED TO READ AS
- 18 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 28. (a) The general
- 19 assembly may appropriate the sums necessary to administer this
- 20 chapter.
- 21 (b) The emergency management contingency fund is established.
- 22 The fund consists of money appropriated by the general assembly.

Money in the fund must be held in reserve and allocated for emergency management purposes as follows:

(1) For an allocation of not more than one hundred thousand dollars (\$100,000), upon the approval of the director and the budget director.

(2) For an allocation of more than one hundred thousand dollars (\$100,000), upon ~~(1)~~ the recommendation of the director and ~~(2)~~ the approval of the governor. ~~and the budget committee.~~

(c) For an allocation described in subsection (b)(2), the agency shall submit a written report to the following individuals identifying the use of the funds not more than thirty (30) days after the allocation is approved:

(1) Each member of the budget committee.

(2) The speaker of the house of representatives.

(3) The president pro tempore of the senate.

(4) The chairperson of the house committee on ways and means.

(5) The ranking minority member of the house committee on ways and means.

(6) The chairperson of the senate committee on appropriations.

(7) The ranking minority member of the senate committee on appropriations.

SECTION 3. IC 10-14-4-6, AS AMENDED BY P.L.57-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. Subject to the restrictions under this chapter, the agency may use money in the fund to provide financial assistance as follows:

(1) To an eligible entity that:

(A) is not an individual;

(B) contains territory for which a disaster emergency has been declared by the governor;

(C) has suffered damage to the entity's public facilities because of the disaster for which the disaster emergency was declared;

(D) has applied to the department for financial assistance in the form of a grant; and

(E) complies with all other requirements established by the agency.

(2) To an eligible entity:

(A) who is an individual;

(B) whose primary residence is located in territory for which:

~~(i) the governor declares a disaster emergency; or~~

~~(ii) (i) the United States Small Business Administration declares a disaster; and~~

**(ii) there has been no disaster declaration issued by the President of the United States;**

(C) who has suffered damage to the entity's primary residence or individual property because of a disaster described in clause

(B); and

(D) who complies with all other requirements established by the agency.

SECTION 4. IC 10-15-2-2, AS AMENDED BY P.L.22-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The foundation consists of nine (9) voting members and four (4) nonvoting advisory members.

(b) The voting members shall be appointed by the governor. Each Indiana congressional district must be represented by at least one (1) member who is a resident of that congressional district. Not more than five (5) of the members appointed under this subsection may represent the same political party.

(c) The four (4) nonvoting advisory members are as follows:

(1) Two (2) members, one (1) from each political party, appointed by the president pro tempore of the senate with advice from the minority leader of the senate.

(2) Two (2) members, one (1) from each political party, appointed by the speaker of the house of representatives with advice from the minority leader of the house of representatives.

(d) In the absence of a member, the member's vote may be cast by another member if the member casting the vote has a written proxy in proper form as required by the foundation.

**(e) A voting member may appoint a designee of the same political party as the voting member to act on the voting member's behalf under this chapter. The designee must reside in the same congressional district as the voting member. An appointment under this section must:**

**(1) be for one (1) specified meeting;**

**(2) be made in writing or electronic mail submitted to the foundation at least two (2) calendar days before the meeting that the designee attends on behalf of the member; and**

**(3) be maintained in the permanent records of the foundation.**

SECTION 5. IC 10-15-2-3, AS AMENDED BY P.L.22-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) A quorum consists of five (5) of the voting members of the foundation.

(b) The affirmative vote of at least five (5) voting members of the foundation **or the members' designees** is necessary for the foundation to take action.

SECTION 6. IC 11-10-4-3, AS AMENDED BY P.L.99-2007, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) A committed offender may be involuntarily transferred to the division of mental health and addiction or to a mental health facility only if:

(1) the offender has been examined by a psychiatrist employed or retained by the department and the psychiatrist reports to the department in writing that, in the psychiatrist's opinion, the offender has a mental illness and is in need of care and treatment by the division of mental health and addiction or in a mental health facility;

(2) the director of mental health approves of the transfer if the offender is to be transferred to the division of mental health and addiction; and

(3) the department affords the offender a hearing to determine the

1 need for the transfer, which hearing must comply with the  
2 following minimum standards:

3 (A) The offender shall be given at least ten (10) days advance  
4 written and verbal notice of the date, time, and place of the  
5 hearing and the reason for the contemplated transfer. This  
6 notice must advise the offender of the rights enumerated in  
7 clauses (C) and (D). Notice must also be given to one (1) of  
8 the following:

- 9 (i) The offender's spouse.  
10 (ii) The offender's parent.  
11 (iii) The offender's attorney.  
12 (iv) The offender's guardian.  
13 (v) The offender's custodian.  
14 (vi) The offender's relative.

15 (B) A copy of the psychiatrist's report must be given to the  
16 offender not later than at the time notice of the hearing is  
17 given.

18 (C) The offender is entitled to appear in person, speak in the  
19 offender's own behalf, call witnesses, present documentary  
20 evidence, and confront and cross-examine witnesses.

21 (D) The offender is entitled to be represented by counsel or  
22 other representative.

23 (E) The offender must be given a written statement of the  
24 findings of fact, the evidence relied upon, and the reasons for  
25 the action taken.

26 (F) A finding that the offender is in need of mental health care  
27 and treatment in the division of mental health and addiction or  
28 a mental health facility must be based upon clear and  
29 convincing evidence.

30 (b) If the official in charge of the facility or program to which the  
31 offender is assigned determines that emergency care and treatment in  
32 the division of mental health and addiction or a mental health facility  
33 is necessary to control a mentally ill offender who is either gravely  
34 disabled or dangerous, that offender may be involuntarily transferred,  
35 subject to the approval of the director of the division of mental health  
36 and addiction, before holding the hearing described in subsection  
37 (a)(3). However, this subsection does not deprive the offender of the  
38 offender's right to a hearing.

39 (c) The official in charge of the division of mental health and  
40 addiction or facility to which an offender is transferred under this  
41 section must give the offender a semiannual written report, based on a  
42 psychiatrist's examination, concerning the offender's mental condition  
43 and the need for continued care and treatment in the division of mental  
44 health and addiction or facility. If the report states that the offender is  
45 still in need of care and treatment in the division of mental health and  
46 addiction or a mental health facility, the division of mental health and  
47 addiction or facility shall, upon request of the offender or a  
48 representative in the offender's behalf, conduct a hearing to review the  
49 need for that continued care and treatment. The hearing must comply  
50 with the minimum standards established by subsection (a)(3). The  
51 division of mental health and addiction or facility to which the offender

1 is transferred under this section may conduct a hearing under this  
2 subsection upon its initiative.

3 (d) If the division of mental health and addiction or facility to which  
4 an offender is transferred under this section determines that the  
5 offender no longer needs care and treatment in the division of mental  
6 health and addiction or facility, the division of mental health and  
7 addiction or facility shall return the offender to the custody of the  
8 department of correction, and the department of correction shall  
9 reassign the offender to another facility or program.

10 **(e) After an offender has been involuntarily transferred to and**  
11 **accepted by the division of mental health and addiction, the**  
12 **department shall transmit any information required by the division**  
13 **of state court administration for transmission to the NICS (as**  
14 **defined in IC 35-47-2.5-2.5) in accordance with IC 33-24-6-3.**

15 SECTION 7. IC 12-26-6-8, AS AMENDED BY P.L.141-2006,  
16 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
17 JULY 1, 2009]: Sec. 8. (a) If, upon the completion of the hearing and  
18 consideration of the record, the court finds that the individual is  
19 mentally ill and either dangerous or gravely disabled, the court may  
20 order the individual to:

- 21 (1) be committed to an appropriate facility; or
- 22 (2) enter an outpatient treatment program under IC 12-26-14 for
- 23 a period of not more than ninety (90) days.

24 (b) The court's order must require that the superintendent of the  
25 facility or the attending physician file a treatment plan with the court  
26 within fifteen (15) days of the individual's admission to the facility  
27 under a commitment order.

28 (c) If the commitment ordered under subsection (a) is to a state  
29 institution administered by the division of mental health and addiction,  
30 the record of commitment proceedings must include a report from a  
31 community mental health center stating both of the following:

- 32 (1) That the community mental health center has evaluated the
- 33 individual.
- 34 (2) That commitment to a state institution administered by the
- 35 division of mental health and addiction under this chapter is
- 36 appropriate.

37 (d) The physician who makes the statement required by section 2(c)  
38 of this chapter may be affiliated with the community mental health  
39 center that submits to the court the report required by subsection (c).

40 (e) If the commitment is of an adult to a research bed at Larue D.  
41 Carter Memorial Hospital as set forth in IC 12-21-2-3, the report from  
42 a community mental health center is not required.

43 (f) If a commitment ordered under subsection (a) is to a state  
44 institution administered by the division of disability and rehabilitative  
45 services, the record of commitment proceedings must include a report  
46 from a service coordinator employed by the division of disability and  
47 rehabilitative services stating that, based on a diagnostic assessment of  
48 the individual, commitment to a state institution administered by the  
49 division of disability and rehabilitative services under this chapter is  
50 appropriate.

51 **(g) If the court makes a finding under subsection (a) (including**

**a finding in reference to a child under IC 31-37-18-3), the court shall transmit any information required by the division of state court administration to the division of state court administration for transmission to the NICS (as defined in IC 35-47-2.5-2.5) in accordance with IC 33-24-6-3.**

SECTION 8. IC 12-26-7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) If at the completion of the hearing and the consideration of the record an individual is found to be mentally ill and either dangerous or gravely disabled, the court may enter either of the following orders:

(1) For the individual's custody, care, or treatment, or continued custody, care, or treatment in an appropriate facility.

(2) For the individual to enter an outpatient therapy program under IC 12-26-14.

(b) An order entered under subsection (a) continues until any of the following occurs:

(1) The individual has been:

(A) discharged from the facility; or

(B) released from the therapy program.

(2) The court enters an order:

(A) terminating the commitment; or

(B) releasing the individual from the therapy program.

**(c) If the court makes a finding under subsection (a), the court shall transmit any information required by the division of state court administration to the division of state court administration for transmission to the NICS (as defined in IC 35-47-2.5-2.5) in accordance with IC 33-24-6-3.**

SECTION 9. IC 22-14-3-2, AS AMENDED BY P.L.57-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The division shall issue an amusement and entertainment permit to an applicant who qualifies under section 3 of this chapter.

(b) A permit issued under section 3 of this chapter expires ~~as follows: (1) For a permit issued to a school under section 1(c) of this chapter, one (1) year after the date of issuance. (2) For a permit other than a permit described in subdivision (1), December 31 in the year the permit is issued.~~ The permit applies only to the place, maximum occupancy, and use specified in the permit.

SECTION 10. IC 33-23-1-9.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 9.5. "NICS" has the meaning set forth in IC 35-47-2.5-2.5.**

SECTION 11. IC 33-23-15 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

#### **Chapter 15. NICS Appeals**

**Sec. 1. This chapter applies to the following:**

(1) A person civilly committed under IC 12-26-6-8.

(2) A person found to be mentally ill and either dangerous or gravely disabled under IC 12-26-7-5.

(3) A person found guilty but mentally ill under IC 35-36-2-5.



(4) A person found not responsible by reason of insanity under IC 35-36-2-4.

(5) A person found incompetent to stand trial under IC 35-36-3-1.

(6) A confined offender who is determined to be mentally ill and has been involuntarily transferred to and accepted by the division of mental health and addiction under IC 11-10-4-3.

Sec. 2. (a) If a person described in section 1 of this chapter:

(1) has been released from commitment; or

(2) successfully completes a treatment or rehabilitation program;

the person may petition the court (if the adjudication leading to the person's commitment, rehabilitation, or treatment program was from a court) or the department of correction (if the determination leading to the person's rehabilitation or treatment program was from a psychiatrist employed by or retained by the department of correction) to determine whether the person is prohibited from possessing a handgun because the person is not a proper person under IC 35-47-1-7(5) or IC 35-47-1-7(6).

(b) In determining whether the person is prohibited from possessing a handgun because the person is not a proper person under IC 35-47-1-7(5) or IC 35-47-1-7(6), the court or department of correction shall consider the following evidence:

(1) The facts and circumstances leading to the person being included in the category of persons to whom this chapter applies.

(2) The person's mental health and criminal history records.

(3) Evidence concerning the person's reputation, including the testimony of character witnesses.

(4) A recent mental health evaluation by a psychiatrist or psychologist licensed to practice in Indiana.

(c) If the court or the department of correction, after considering the evidence described in subsection (b), finds by clear and convincing evidence that:

(1) the person is not a danger to the person or to others;

(2) the person is not likely to act in a manner dangerous to public safety; and

(3) the requested relief would not be contrary to public interest;

the court or department of correction shall transmit its findings to the department of state court administration, and any other information required by the division of state court administration, for transmission to the NICS in accordance with IC 33-24-6-3.

(d) A determination under this section may be appealed only in accordance with section 3 of this chapter.

Sec. 3. (a) A person who receives an adverse decision under section 2 of this chapter may seek review the decision by filing, not later than thirty (30) days after receiving the adverse decision, an action for review:

(1) in the court of conviction, if the adverse decision was made by the department of correction; or

(2) in a circuit or superior court in a county adjacent to the county in which the court rendered the adverse decision, if the adverse decision was made by a court.

(b) The court hearing an action for review filed under this section shall conduct the review hearing de novo. The hearing shall be conducted in accordance with section 2 of this chapter.

(c) The determination of a court under this section is a final appealable order.

SECTION 12. IC 33-24-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The division of state court administration shall do the following:

(1) Examine the administrative and business methods and systems employed in the offices of the clerks of court and other offices related to and serving the courts and make recommendations for necessary improvement.

(2) Collect and compile statistical data and other information on the judicial work of the courts in Indiana. All justices of the supreme court, judges of the court of appeals, judges of all trial courts, and any city or town courts, whether having general or special jurisdiction, court clerks, court reporters, and other officers and employees of the courts shall, upon notice by the executive director and in compliance with procedures prescribed by the executive director, furnish the executive director the information as is requested concerning the nature and volume of judicial business. The information must include the following:

(A) The volume, condition, and type of business conducted by the courts.

(B) The methods of procedure in the courts.

(C) The work accomplished by the courts.

(D) The receipt and expenditure of public money by and for the operation of the courts.

(E) The methods of disposition or termination of cases.

(3) Prepare and publish reports, not less than one (1) or more than two (2) times per year, on the nature and volume of judicial work performed by the courts as determined by the information required in subdivision (2).

(4) Serve the judicial nominating commission and the judicial qualifications commission in the performance by the commissions of their statutory and constitutional functions.

(5) Administer the civil legal aid fund as required by IC 33-24-12.

(6) Administer the judicial technology and automation project fund established by section 12 of this chapter.

**(7) Establish and administer an electronic system for receiving information that relates to certain individuals who may be prohibited from possessing a firearm and transmitting this information to the Federal Bureau of Investigation for inclusion in the NICS.**

(b) All forms to be used in gathering data must be approved by the supreme court and shall be distributed to all judges and clerks before the start of each period for which reports are required.

**(c) The division may adopt rules to implement this section.**

1       SECTION 13. IC 35-36-2-4 IS AMENDED TO READ AS  
 2       FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) Whenever a  
 3       defendant is found not responsible by reason of insanity at the time of  
 4       the crime, the prosecuting attorney shall file a written petition with the  
 5       court under IC 12-26-6-2(a)(3) or under IC 12-26-7. If a petition is filed  
 6       under IC 12-26-6-2(a)(3), the court shall hold a commitment hearing  
 7       under IC 12-26-6. If a petition is filed under IC 12-26-7, the court shall  
 8       hold a commitment hearing under IC 12-26-7.

9       (b) The hearing shall be conducted at the earliest opportunity after  
 10      the finding of not responsible by reason of insanity at the time of the  
 11      crime, and the defendant shall be detained in custody until the  
 12      completion of the hearing. The court may take judicial notice of  
 13      evidence introduced during the trial of the defendant and may call the  
 14      physicians appointed by the court to testify concerning whether the  
 15      defendant is currently mentally ill and dangerous or currently mentally  
 16      ill and gravely disabled, as those terms are defined by IC 12-7-2-96 and  
 17      IC 12-7-2-130(1). The court may subpoena any other persons with  
 18      knowledge concerning the issues presented at the hearing.

19      (c) The defendant has all the rights provided by the provisions of  
 20      IC 12-26 under which the petition against the defendant was filed. The  
 21      prosecuting attorney may cross-examine the witnesses and present  
 22      relevant evidence concerning the issues presented at the hearing.

23      (d) If a court orders an individual to be committed under IC 12-26-6  
 24      or IC 12-26-7 following a verdict of not responsible by reason of  
 25      insanity at the time of the crime, the superintendent of the facility to  
 26      which the individual is committed and the attending physician are  
 27      subject to the requirements of IC 12-26-15-1.

28      **(e) If a defendant is found not responsible by reason of insanity,**  
 29      **the court shall transmit any information required by the division**  
 30      **of state court administration to the division of state court**  
 31      **administration for transmission to the NICS (as defined in**  
 32      **IC 35-47-2.5-2.5) in accordance with IC 33-24-6-3.**

33      SECTION 14. IC 35-36-2-5, AS AMENDED BY P.L.99-2007,  
 34      SECTION 200, IS AMENDED TO READ AS FOLLOWS  
 35      [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) Except as provided by  
 36      subsection (e), whenever a defendant is found guilty but mentally ill at  
 37      the time of the crime or enters a plea to that effect that is accepted by  
 38      the court, the court shall sentence the defendant in the same manner as  
 39      a defendant found guilty of the offense.

40      (b) Before sentencing the defendant under subsection (a), the court  
 41      shall require the defendant to be evaluated by a physician licensed  
 42      under IC 25-22.5 who practices psychiatric medicine, a licensed  
 43      psychologist, or a community mental health center (as defined in  
 44      IC 12-7-2-38). However, the court may waive this requirement if the  
 45      defendant was evaluated by a physician licensed under IC 25-22.5 who  
 46      practices psychiatric medicine, a licensed psychologist, or a community  
 47      mental health center and the evaluation is contained in the record of the  
 48      defendant's trial or plea agreement hearing.

49      (c) If a defendant who is found guilty but mentally ill at the time of  
 50      the crime is committed to the department of correction, the defendant  
 51      shall be further evaluated and then treated in such a manner as is

psychiatrically indicated for the defendant's mental illness. Treatment may be provided by:

- (1) the department of correction; or
- (2) the division of mental health and addiction after transfer under IC 11-10-4.

(d) If a defendant who is found guilty but mentally ill at the time of the crime is placed on probation, the court may, in accordance with IC 35-38-2-2.3, require that the defendant undergo treatment.

(e) As used in this subsection, "individual with mental retardation" has the meaning set forth in IC 35-36-9-2. If a court determines under IC 35-36-9 that a defendant who is charged with a murder for which the state seeks a death sentence is an individual with mental retardation, the court shall sentence the defendant under IC 35-50-2-3(a).

**(f) If a defendant is found guilty but mentally ill, the court shall transmit any information required by the division of state court administration to the division of state court administration for transmission to the NICS (as defined in IC 35-47-2.5-2.5) in accordance with IC 33-24-6-3.**

SECTION 15. IC 35-36-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) If at any time before the final submission of any criminal case to the court or the jury trying the case, the court has reasonable grounds for believing that the defendant lacks the ability to understand the proceedings and assist in the preparation of a defense, the court shall immediately fix a time for a hearing to determine whether the defendant has that ability. The court shall appoint two (2) or three (3) competent, disinterested:

- (1) psychiatrists; or
- (2) psychologists endorsed by the Indiana state board of examiners in psychology as health service providers in psychology.

At least one (1) of the individuals appointed under this subsection must be a psychiatrist. However, none may be an employee or a contractor of a state institution (as defined in IC 12-7-2-184). The individuals who are appointed shall examine the defendant and testify at the hearing as to whether the defendant can understand the proceedings and assist in the preparation of the defendant's defense.

(b) At the hearing, other evidence relevant to whether the defendant has the ability to understand the proceedings and assist in the preparation of the defendant's defense may be introduced. If the court finds that the defendant has the ability to understand the proceedings and assist in the preparation of the defendant's defense, the trial shall proceed. If the court finds that the defendant lacks this ability, it shall delay or continue the trial and order the defendant committed to the division of mental health and addiction. The division of mental health and addiction shall provide competency restoration services or enter into a contract for the provision of competency restoration services by a third party in the:

- (1) location where the defendant currently resides; or
- (2) least restrictive setting appropriate to the needs of the defendant and the safety of the defendant and others.

1 However, if the defendant is serving an unrelated executed sentence in  
 2 the department of correction at the time the defendant is committed to  
 3 the division of mental health and addiction under this section, the  
 4 division of mental health and addiction shall provide competency  
 5 restoration services or enter into a contract for the provision of  
 6 competency restoration services by a third party at a department of  
 7 correction facility agreed upon by the division of mental health and  
 8 addiction or the third party contractor and the department of correction.

9 **(c) If the court makes a finding under subsection (b), the court**  
 10 **shall transmit any information required by the division of state**  
 11 **court administration to the division of state court administration**  
 12 **for transmission to the NICS (as defined in IC 35-47-2.5-2.5) in**  
 13 **accordance with IC 33-24-6-3.**

14 SECTION 16. IC 35-44-2-5 IS ADDED TO THE INDIANA CODE  
 15 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 16 1, 2009]: **Sec. 5. (a) A person who knowingly or intentionally**  
 17 **manufactures and sells or manufactures and offers for sale:**

18 **(1) an official badge or a replica of an official badge that is**  
 19 **currently used by a law enforcement agency or fire**  
 20 **department of the state or of a political subdivision of the**  
 21 **state; or**

22 **(2) a document that purports to be an official employment**  
 23 **identification that is used by a law enforcement agency or fire**  
 24 **department of the state or of a political subdivision of the**  
 25 **state;**

26 **without the written permission of the chief executive officer of the**  
 27 **law enforcement agency commits unlawful manufacture or sale of**  
 28 **a police or fire insignia, a Class A misdemeanor.**

29 **(b) However, the offense described in subsection (a) is:**

30 **(1) a Class D felony if the person commits the offense with the**  
 31 **knowledge or intent that the badge or employment**  
 32 **identification will be used to further the commission of an**  
 33 **offense under IC 35-44-2-3; and**

34 **(2) a Class B felony if the person commits the offense with the**  
 35 **knowledge or intent that the badge or employment**  
 36 **identification will be used to further the commission of an**  
 37 **offense under IC 35-47-12.**

38 **(c) It is a defense to a prosecution under subsection (a)(1) if the**  
 39 **area of the badge or replica that is manufactured and sold or**  
 40 **manufactured and offered for sale as measured by multiplying the**  
 41 **greatest length of the badge by the greatest width of the badge is:**

42 **(1) less than fifty percent (50%); or**

43 **(2) more than one hundred fifty percent (150%);**

44 **of the area of an official badge that is used by a law enforcement**  
 45 **agency or fire department of the state or a political subdivision of**  
 46 **the state as measured by multiplying the greatest length of the**  
 47 **official badge by the greatest width of the official badge.**

48 SECTION 17. IC 36-8-10.5-7, AS AMENDED BY P.L.148-2007,  
 49 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 50 JANUARY 1, 2010]: **Sec. 7. (a) The education board shall adopt rules**  
 51 **under IC 4-22-2 establishing minimum basic training requirements for**

full-time firefighters and volunteer firefighters, subject to subsection (b) **and section 7.5 of this chapter**. The requirements must include training in the following areas:

- (1) Orientation.
- (2) Personal safety.
- (3) Forcible entry.
- (4) Ventilation.
- (5) Apparatus.
- (6) Ladders.
- (7) Self-contained breathing apparatus.
- (8) Hose loads.
- (9) Streams.
- (10) Basic recognition of special hazards.

(b) A person who fulfills the certification requirements for:

- (1) Firefighter I, as described in 655 IAC 1-2.1-4; or
- (2) Firefighter II, as described in 655 IAC 1-2.1-5;

is considered to comply with the requirements established under subsection (a).

(c) In addition to the requirements of subsections (a) and (d), the minimum basic training requirements for full-time firefighters and volunteer firefighters must include successful completion of a basic or inservice course of education and training on sudden infant death syndrome that is certified by the emergency medical services commission (created under IC 16-31-2-1) in conjunction with the state health commissioner.

(d) In addition to the requirements of subsections (a) and (c), the minimum basic training requirements for full-time and volunteer firefighters must include successful completion of an instruction course on vehicle emergency response driving safety. The education board shall adopt rules under IC 4-22-2 to operate this course.

SECTION 18. IC 36-8-10.5-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: **Sec. 7.5. (a) Except as provided in subsection (b), an individual whose employment by a fire department as a full-time firefighter begins after December 31, 2009, must complete the training for Firefighter I (as described in 655 IAC 1-2.1-4) and Firefighter II (as described in 655 IAC 1-2.1-5) during the firefighter's first year of employment. The fire department that employs a firefighter shall report to the education board when the firefighter has completed the training requirements established by this subsection.**

**(b) The education board may grant a firefighter any number of extensions of six (6) months to complete the training required under subsection (a). An extension must be requested by the fire department that employs the firefighter. An extension may be requested for any reason, including the following:**

- (1) The firefighter has been attending training in accordance with section 8 of this chapter in any of the following:**
  - (A) Hazardous materials.**
  - (B) Paramedic training.**
  - (C) Emergency medical technician training.**

- 1           **(D) Technical training.**  
 2           **(2) The firefighter was unable to complete the training due to**  
 3           **economic reasons.**  
 4           **(c) The education board shall determine whether a firefighter**  
 5           **receives an extension under this section.**  
 6           SECTION 19. [EFFECTIVE JULY 1, 2009] **IC 35-44-2-5, as**  
 7           **added by this act, applies only to offenses committed after June 30,**  
 8           **2009.**  
 9           SECTION 20. [EFFECTIVE UPON PASSAGE] **(a) The**  
 10           **department of homeland security may adopt emergency rules to**  
 11           **implement IC 10-14-4-6, as amended by this act, in the manner**  
 12           **provided for the adoption of emergency rules under IC 4-22-2-37.1.**  
 13           **(b) An emergency rule adopted under this SECTION expires on**  
 14           **the earlier of:**  
 15               **(1) the date the department of homeland security adopts**  
 16               **permanent rules under IC 4-22-2 to replace the emergency**  
 17               **rules; or**  
 18               **(2) July 1, 2011.**  
 19           **(c) This SECTION expires July 1, 2011.**  
 20           SECTION 21. [EFFECTIVE JULY 1, 2009] **(a) IC 22-14-3-2, as**  
 21           **amended by this act, applies to amusement and entertainment**  
 22           **permits issued after June 30, 2009.**  
 23           **(b) This subsection applies to an unexpired amusement and**  
 24           **entertainment permit issued before July 1, 2009. Notwithstanding**  
 25           **IC 22-14-3-2, as amended by this act, an amusement and**  
 26           **entertainment permit expires one (1) year after the date of**  
 27           **issuance.**  
 28           **(c) This SECTION expires December 31, 2010.**  
 29           SECTION 22. **An emergency is declared by this act.**  
               (Reference is to ESB 1428 as printed March 11, 2009.)

**Conference Committee Report**  
**on**  
**Engrossed House Bill 1428**

**S**igned by:

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Representative Tincher  
Chairperson

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Senator Waterman

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Representative Ruppel

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Senator Arnold

**House Conferees**

**Senate Conferees**